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STATE OF WASHINGTON
GAMBLING COMMISSION

FEB 18 2009

GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Denial of the)	
Application for a License to Conduct)	WGC No. CR 2008-01308
Gambling Activities of:)	OAH No. 2008-GMB-0083
)	
NOSRATOLLAH MORADI)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
Applicant)	AND INITIAL ORDER
)	

STATEMENT OF THE CASE

Pursuant to notice duly given, an administrative hearing was held before James D. Stanford, duly appointed administrative law judge, at the Washington State Gambling Commission, 4565 7th Avenue SE, Lacey, Washington, on the 15th day of December, 2008, in the matter of the denial of the application for a license to conduct gambling activities of Nosratollah Moradi.

The Washington State Gambling Commission (commission) was represented by H. Bruce Marvin, assistant attorney general. Nosratollah Moradi (applicant) appeared pro se.

On September 23, 2008, the director of the commission caused a notice of administrative charges and opportunity for an adjudicative proceeding to be issued against the applicant alleging that he was unfit to hold a license to conduct authorized gambling activities in Washington State due to prior misconduct by having earlier committed theft of gambling proceeds from his employer while acting as a casino manager in violation chapter 9.46 RCW and the rules and regulations adopted by the commission pursuant thereto. On October 10, 2008, the applicant filed an application for an adjudicative proceeding concerning the denial of his application for a license to conduct gambling activities. On November 3, 2008, the parties were duly notified of the time and the place of the adjudicative proceedings. There were thirteen (13) exhibits admitted and testimony offered by two (2) witnesses.

The administrative law judge, having considered the evidence, now enters the following findings of fact:

FINDINGS OF FACT

1. On or about June 27, 2008, the applicant, Nosratollah Moradi, who is fifty-six (56) years of age, entered with the commission an application for a license to conduct

gambling activities as a card room employee at the Big Daddy's casino in or near Spokane, Washington. The applicant has an engineering degree from Montana Technical University and is one course from earning a Master's Degree in Business Administration from Eastern Washington University.

2. Between 1994 and approximately 2002, the applicant was licensed by the commission and employed as a card room employee and at a pit boss primarily at the Pine Shed restaurant and at the Players and Spectators casino in or near Spokane, Washington. In early 2001, the appellant became the casino manager of the Homeplate Bar and Grill in or near Spokane.

3. In May 2001, while acting as a casino manager at the Homeplate Bar and Grill, the applicant stole \$1,988.00 in gambling proceeds and a check for \$100 from his employer. According to his written statement dated May 8, 2001, the applicant was charged with the duty of depositing three bags of money into the Homeplate bank account on May 3, 2001. The applicant only deposited funds from only two of the three money bags, but failed to deposit the money in the third bag which contained the \$1,988.00 and one check for \$100.00. The applicant converted the money in the third bag to his own use without the authority of his employer. As a result of this theft, the applicant's employer was determined to have been in violation of the commission rule that all of the gambling proceeds be deposited into a bank account within two business days of their receipt. The applicant subsequently lost the entire amount that he stole while betting at the local horse racing track in Post Falls, Idaho.

4. When he admitted his theft to his employer, the applicant negotiated to refund some of the money he stole primarily from his earned income that was still in the possession of his employer. The applicant also later returned the \$100 check to the Homeplate Bar and Grill. The applicant believes that he has refunded all but \$200.00 of the money he stole. As a result of his theft, the applicant was terminated from his position of employment at the Homeplate Bar and Grill. The applicant, who was never prosecuted or his theft from the Homeplate Bar and Grill, when his former employer refused to press charges against him. The appellant initially allowed his card room employee license to expire.

5. On or about August 12, 2002, the applicant reapplied for a license to act as a card room employee. During a background investigation of that application, the commission learned of the May 8, 2001, theft and that on six separate occasions, while he was acting as a casino manager at the Homeplate Bar and Grill, the applicant had failed to deposit his employers gambling proceeds within the two business days required by the commission rules.

6. On or about September 4, 2002, the commission filed a notice of administrative charges against the applicant for his theft of gambling proceeds from the

Homeplate Bar and Grill and for failing to timely deposit gambling proceeds within two days. The applicant timely applied for an adjudicative hearing.

7. On December 18, 2002, an administrative law judge convened an administrative hearing to determine if he was qualified to hold a license as a card room employee. On February 14, 2003, the administrative law judge entered Findings of Fact, Conclusions of Law and an Initial Order in which she sustained the denial of the applicant's application based upon his earlier misconduct. The applicant appealed the Initial Order for review by the Gambling Commission. On June 12, 2003, the members of the commission entered a Final Order sustaining the denial of the application for card room employee license by the applicant.

8. The applicant later voluntarily entered treatment for compulsive gambling behavior. The applicant is not currently in treatment and believes that he no longer has any compulsion to gamble excessively. The applicant describes his activity of converting cash belonging to his employer as constituting a "mistake" rather than a theft and that this should not preclude him from becoming relicensed as a card room employee.

9. The applicant testified that he has been having trouble finding employment in positions of trust, notwithstanding his educational achievements, because his record of the theft subsequent denials by the Gambling Commission of his subsequent license application is posted on the internet. The applicant also identified that if he is granted a license, he will not accept a position at a casino higher than that of a pit boss. In that position, the applicant will not be responsible for large sums of money.

From the foregoing findings of fact, the administrative law judge now enters the following conclusions of law:

CONCLUSIONS OF LAW

1. The appellant is the holder of a license to conduct authorized gambling activities pursuant to chapter 9.46 RCW and is subject to the provisions of RCW 9.46.075 and WAC 230-03-085.

2. The commission has the broad purpose of protecting the public by insuring that those activities authorized by chapter 9.46 RCW do not maliciously affect the public and do not breach the peace. The legislature has recognized the close relationship between professional gambling and organized crime. RCW 9.46.010.

3. An application to receive a license under chapter 9.46 RCW or rules adopted pursuant thereto constitutes a request for determination of the appellant's general character, integrity and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153(7). It is the affirmative responsibility

of each appellant to establish by clear and convincing evidence his qualifications for licensure. RCW 9.46.153(1). Theft in the first is identified as the theft of money and checks having a value of more than \$1,500 and is a class B felony. RCW 9A.56.030. The theft of \$1,988.00 in cash and \$100.00 in checks from his employer is a felony which places the applicant's character beneath the standard that would allow him to reenter the field of gambling. In addition, the failure of the applicant to timely deposit gambling proceeds while occupying a position of trust and his failure to make full restitution of the funds he converted further demonstrate his lack of character, integrity and ability to engage in or participate in gambling or related activities.

4. It is unlawful for any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person. RCW 9.46.190(3). The theft of \$2,088, in funds and checks entrusted to him to be timely deposited into a bank by the applicant is an act, practice or course of operation that operates as a fraud or deceit on another person.

5. The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest when a appellant has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto. RCW 9.46.075(1). We (the commission) may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075. WAC 230-03-085(1). By the theft of cash and checks, the failure to timely make bank deposits, and the failure to make full restitution are acts which constitute grounds for denying licenses or permits. The commission may deny the application for a card room employee license of the applicant under RCW 9.46.071(1) and WAC 230-03-085(1).

6. The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest when a appellant fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter. RCW 9.46.075(8). It is the appellant's burden to establish he is presently fit for the license. The appellant's character has been called into serious question by his theft of gambling proceeds while acting in a position of trust, his failure to timely deposit gambling proceeds for his employer, and his subsequently failure to reimburse his employer entirely after his theft was disclosed. Other than his verbal assertions, the applicant has offered no evidence concerning his present good character. The evidence of the applicant does not meet the clear and convincing standard required by the act and the commission rules justifying the commissions decision to deny his application for a card room employee license pursuant to RCW 9.46.075(8).

7. We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities. WAC 230-03-085(3)(a). While eight years have elapsed since his theft of funds from his employer while holding a position of trust in the gambling field clearly creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities may recur if a license is issued justifying the denial of the applicant's application to become licensed as a card room employee. The commission may deny the license under WAC 230-03-085(3)(a).

8. The commission may deny a license or permit to any applicant, has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain. RCW 9.74.075(10). The legislature also declared in RCW 9.46.010 that it recognizes the close relationship between professional gambling and organized crime. The prevailing public policy statement by the legislature is to keep criminals out of gambling. This is the primary and prevailing policy statement which must guide the commission. The legislature further declared in RCW 9.46.010 that all factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of the chapter shall be liberally construed to achieve such ends. The general public can find itself in a particularly vulnerable position should a person licensed to conduct gambling activities fail to discharge his occupation with a sense of justice and honesty. The commission may deny the application of the applicant to be licensed as a card room employee under RCW 9.74.075(10).

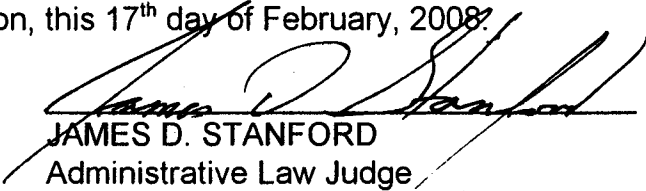
9. The evidence of the commission has established that in the public interest, the revocation of the license to act as a card room employee of the appellant, Nosratollah Moradi, is in the public interest.

From the foregoing conclusions of law, NOW THEREFORE,

INITIAL ORDER

IT IS HEREBY ORDERED That in the public interest the license of Nosratollah Moradi to conduct gambling activities as a card room employee be and the same is hereby denied.

DATED at Olympia, Washington, this 17th day of February, 2008.



JAMES D. STANFORD

Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Pursuant to RCW 34.05.461 and the Washington State Gambling Commission Rules, WAC 230-17-085 and WAC 230-17-090, you have twenty days from the date this initial order was mailed to file an appeal of this. Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2).

Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3).

Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4).

Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us. WAC 230-17-090(5).

Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6).

After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

Copy mailed to:

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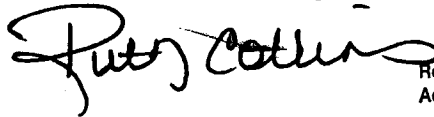
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STATE OF WASHINGTON)
) ss.
CC)

I hereby certify that I have this day served a copy of this document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington, this 17 day of February 2009



Representative, Office of
Administrative Hearings

BEFORE THE WASHINGTON STATE GAMBLING COMMISSION

In the Matter of the Denial of the
Application for a License to Conduct
Gambling Activities of:

NOSRATOLLAH MORADI,

Applicant.

NO. CR 2008-01308

(OAH NO. 2008-GMB-0083)

FINAL ORDER ON
PETITION FOR REVIEW

THIS MATTER came on for hearing before the undersigned Commissioners of the Washington State Gambling Commission at the Commission's regularly scheduled meeting on May 14, 2009, in Pasco, Washington, on Applicant Nosratollah Moradi's Petition For Review. The Applicant appeared pro se. Agency staff were represented by Assistant Attorney General H. Bruce Marvin. The Commission had before it the entire record of the proceedings before the Administrative Law Judge, as well as additional pleadings prepared for the presentation of the Petition. Following argument, and review of the record, the Commission finds that the record in this matter is sufficient and Orders as follows:

IT IS ORDERED that the Administrative Law Judge's Findings of Fact and Conclusions of Law heretofore made and entered in this matter be, and the same hereby are, AFFIRMED, and that they are incorporated into this Order by reference and adopted as the Findings of Fact and Conclusions of Law of the Commission, with the following AMENDMENT:

1. The third full sentence of text in Finding of Fact No. 4, as previously entered by the Administrative Law Judge, is amended in its entirety to read as follows: "The applicant testified that when he informed his employer about the theft he also, at the same time, arranged to reimburse all but \$200.00 of the money he had stolen."; and,

IT IS FURTHER ORDERED that the Initial Order of the Administrative Law Judge is hereby AFFIRMED, and that the application for a license to conduct gambling activities previously submitted by Applicant Nosratollah Moradi, is, accordingly, HEREBY DENIED.

DATED this ____ day of August, 2009.


PEGGY ANN BIERBAUM, CHAIR

JOHN ELLIS, COMMISSIONER

MIKE AMOS, COMMISSIONER

KEVEN ROJECKI, VICE-CHAIR

NOTICE: RECONSIDERATION

PURSUANT TO THE PROVISIONS OF RCW 34.05.470 AND WAC 230-50-562 YOU MAY FILE A PETITION FOR RECONSIDERATION WITH THE COMMISSION WITHIN TEN (10) DAYS FROM THE DATE THIS FINAL ORDER IS SERVED UPON YOU. ANY REQUEST FOR RECONSIDERATION MUST STATE THE SPECIFIC GROUNDS FOR THE RELIEF REQUESTED. PETITIONS MUST BE DELIVERED OR MAILED TO:

WASHINGTON STATE GAMBLING COMMISSION
PO BOX 42400
OLYMPIA, WA 98504-2400

NOTICE: PETITION FOR JUDICIAL REVIEW

YOU ALSO HAVE THE RIGHT TO APPEAL THIS FINAL ORDER TO SUPERIOR COURT, PURSUANT TO THE PETITION FOR JUDICIAL REVIEW PROVISIONS OF RCW 34.05.542. ANY PETITION FOR JUDICIAL REVIEW OF THIS FINAL ORDER MUST BE FILED WITH THE COURT AND ALSO SERVED UPON BOTH THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL WITHIN THIRTY (30) DAYS AFTER THE DATE THIS FINAL ORDER IS SERVED UPON YOU.

IT IS FURTHER ORDERED that the Initial Order of the Administrative Law Judge is hereby AFFIRMED, and that the application for a license to conduct gambling activities previously submitted by Applicant Nosratollah Moradi, is, accordingly, HEREBY DENIED.

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IT IS FURTHER ORDERED that the Initial Order of the Administrative Law Judge is hereby AFFIRMED, and that the application for a license to conduct gambling activities previously submitted by Applicant Nosratollah Moradi, is, accordingly, HEREBY DENIED.

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